

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH
DOCKET NO. M-100, SUB 141

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)
Generic Docket to Consider Revision to) COMMENTS OF NC WARN
Commission Rules R12-1, R12-2, R12-3 &)
R12-4)

Pursuant to the Commission's Order Requesting Comments, dated May 21, 2014, now comes NC WARN, by and through the undersigned counsel, with comments on the deposit policies of the electric utilities for new and reconnecting customers.

1. The Commission opened docket M-100 Sub 141 following a consumer complaint by Mr. Mitchell in Docket E-2, Sub 1024, regarding what he alleged were unfavorable deposit policies by Progress Energy, now Duke Energy Progress (DEP). The Complainant had been required to pay a deposit based on a credit check run by the utility even though he had offered evidence of good payment history with his previous utilities. In that proceeding, the Public Staff took the position that although the rules did not directly say that utility can base its deposit requirements solely on a credit check, they do not preclude it either. The Commission dismissed the consumer complaint but opened the current docket to consider appropriate revisions to the rules for deposits, Rules R12-1 through R12-4, to the extent that they impact application of customer deposits and disconnection of ratepayers' service across the board.

2. The basic criteria for the requirement for a deposit is found in R12-1:

Any utility requiring a deposit shall apply a deposit policy in accord with these rules **in an equitable and nondiscriminatory manner to all applicants for service** and to all customers throughout the service area without any different application in any part thereof, and such deposit policy shall be predicated upon the credit risk of the individual without regard to the area in which he lives.

(emphasis added). The policy of “equitable and nondiscriminatory” practices is a sound one but is no longer being followed in practice because the sole use of credit checks by the utilities in investigating credit worthiness does not necessarily relate to past payment of utility bills or the customer’s ability to routinely pay future bills.

3. The present rules establish limits on the utilities’ procedures for the establishment of credit in R12-2(a):

Each utility may require an applicant for service to satisfactorily establish credit which will be deemed established if: (1) The applicant owns the premises to be served or other real estate within the county, unless the applicant is an unsatisfactory credit risk; (2) The applicant demonstrates that he is a satisfactory credit risk by appropriate means including, but not limited to, references which may be quickly and inexpensively checked by the utility; (3) The applicant has been a customer of the utility for a similar type of service within a period of twenty-four consecutive billings preceding the date of application and during the last twelve consecutive billings for that prior service has not had service discontinued for nonpayment of bill or had more than two occasions in which a bill was not paid when it became due; provided, that the average periodic bill for such previous service was equal to at least fifty per centum of that estimated for the new service; and provided further, that the credit of the applicant is unimpaired

The rule further allows for customers to provide a guarantor or makes a cash deposit to show credit worthiness. In all, this rule purports to determine whether the customer is a credit risk but leaves this to the discretion of the utility. The current utility requirement is for the customer to provide his/her social security

number in order to obtain an online credit check. While an online credit check is no doubt an easy method of determining the overall credit score of a customer, it should only be used to determine the customer's past history of paying his/her electric bill. Further, it should be noted the Commission rules on this issue were passed and have not been changed since 1970, except for a few minor modifications, before online credit checks were readily available.

4. Although ownership of property may be enough in R12-2(a)(1) to show credit worthiness, the utility is still allowed to require a deposit if the "applicant is an unsatisfactory credit risk." This provision discriminates against renters, while still leaving the door open for the utility to require a credit check for all new customers, even if the customer owns real estate.

5. Rule 12-2(a)(2) allows for references to be used but in practice, the utilities have relied entirely on credit checks. In the Docket E-2, Sub 1024 complaint, the Complainant offered to provide what most would consider quick and inexpensive references, i.e., former electric bills showing they had been paid and certification by his former utilities, but the showing was declined. What qualifies as fair and appropriate references should be clearly determined and listed by Commission rules, not left solely to utility policy. Similarly Rule 12-2(a)(3) opens the door to credit checks of customers who move in order for the customer to demonstrate his/her credit in unimpaired.

6. As shown in Attachment A, most of the current rules on deposits are only outlined on the Duke Energy Carolinas (DEC) and Duke Energy Progress (DEP) websites rather than as Commission-approved practices or as

Commission rules. Both DEC and DEP follow similar procedures for new customers, requiring basic information and a social security number for a credit check. There does not appear to be a method available for a customer to show past payment history of his/her electric bills.

7. DEC's policy as expressed on its website (see Attachment A) allows two means for residential customers to establish credit prior to connection.

Customers with existing Duke Energy services who have no more than two late payments in the last 12 months and no previously charged off accounts are not required to pay a security deposit. For new customers, Duke Energy runs a credit check at the time of application to determine whether a security deposit will be required.

The first looks solely at electric bills and provides that two late payments out of the last 12 months is acceptable risk. This 2/12 formula should be the norm for all new customers, no matter which utility they had been customers of previously, and the requirement should be simply showing on-time payments ten times in the past year or a certification from the former utility. If the new customer is unable to make the showing, then the utility could require a credit check, but its review should be solely limited to the customer's payment of his/her utility bills and not based on other financial matters in the credit report. NC WARN does not believe a full credit check, or credit score, provides relevant information on whether the customer routinely pays his/her utility bills. The utilities' interest is in the customer's ability to pay electric bills, and not whether a bankruptcy or problems with credit cards affects the customer's overall credit worthiness.

8. There is no requirement in the rules that the utility must provide customers with an option to spread the deposit payment (or in the case of

disconnected customers, the deposit and reconnection fee) across multiple monthly bills or any other alternative that would prevent undue immediate hardship on the customer. The Complainant in Docket E-2, Sub 1024, asked for a monthly payment option because he claimed he did not have the amount needed for the deposit on hand, but the utility denied his request. How are customers without means expected to come up with a deposit equivalent to twice their monthly bill, plus in some cases a reconnection charge, all at once?

9. Rule R12-3 is also vague and leaves too much discretion to the utility:

a customer who fails to pay a bill within a reasonable period after it becomes due and who further fails to pay such bill within five (5) days after presentation of a discontinuance of service notice for non-payment of bill (regardless of whether or not service was discontinued for such nonpayment) may be required to pay such bill, together with a **reasonable reconnection charge**, if service was discontinued after notice as provided in Rule R12-8, and reestablish his credit by depositing the amount prescribed in Rule R12-2

(emphasis added). While R12-4 limits the total amount of the deposit to essentially two times the customer's average monthly bill, the rules do not put a limit on the "reasonable reconnection charge."

10. In light of the above, NC WARN's preference is to follow the lead of other state commissions, such as Massachusetts, and prohibit customer deposits.

In the alternative, NC WARN urges the Commission to establish a working group to rewrite rules to make clear the practices to show credit worthiness, such as the 2/12 formula for late payments from any other utility, and restricting the credit check to just payments of electric bills.

Respectfully submitted this the 29th day of July 2014.

FOR NC WARN

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CERTIFICATE OF SERVICE

The undersigned certifies that on this day he served a copy of the foregoing COMMENTS OF NC WARN upon each of the parties of record in this proceeding or their attorneys of record by electronic mail, or by hand delivery, or by depositing a copy of the same in the United States Mail, postage prepaid.

This the 29th day of July 2014.

By: */s/ John D. Runkle*
Attorney at Law

DUKE ENERGY CAROLINASwww.duke-energy.com/north-carolina/moving.asp

How it Works

You will be asked to provide the following information:

- Physical address (where do you need service turned on)
- Address you are moving from
- Date you need the service (NOTE: Please allow three days to process online requests)
- Mailing address (if different from the physical address)
- Date of birth
- Social Security # or Federal Tax ID
- Spouse / roommate information

Duke Energy Carolinas will assess a non-refundable \$15 connect fee for all newly activated electric accounts.

Start Service

Need to start service at a new location? Choose the Start Service option. In some cases, a security deposit may be required. If we cannot verify your identity during the application process, we'll contact you to complete an [Identity Verification Form](#).

Move Service

Already a Duke Energy customer? If you are moving from one residence in our service area to another, select this option. If it is necessary for you to re-establish credit with a security deposit or if you need to obtain an acceptable guarantor we will contact you by email with additional instructions.

www.duke-energy.com/north-carolina/moving/nc-res-security-deposit-options.asp

All residential customers must establish credit prior to the connection of electrical service. Customers with existing Duke Energy services who have no more than two late payments in the last 12 months and no previously charged off accounts are not required to pay a security deposit. For new customers, Duke Energy runs a credit check at the time of application to determine whether a security deposit will be required. Customers can satisfy the residential security deposit by [Monetary Deposit](#) or [Guarantor](#) (Co-Signer).

DUKE ENERGY PROGRESS

www.progress-energy.com/carolinas/home/start-stop-service/start-service.page?

Start Home Electric Service

Welcome. If you're new to the Duke Energy Progress service area or are moving to a new home and need power turned on, click on the appropriate link below.

- Start service in [North Carolina](#).

New customers or customers not already registered – please follow the [Need to Register?](#) link and register to complete this process.

You will be asked to provide the following information:

- Valid email address
- Physical address (where you need service turned on)
- Social Security or Federal Tax ID
- Primary phone number
- Date you need the service
- Mailing address (if different from the physical address)
- Authorized person (spouse / roommate information)

Duke Energy will assess a non-refundable \$17 (North Carolina) and \$15 (South Carolina) connect fee for all newly activated electric accounts.

Deposit and credit check

Since electricity is billed after it is used, we may require a security deposit before completing your request for service. We'll perform a credit check to determine the deposit amount for new Duke Energy Progress customers, as well as former or existing customers.

Electrical inspections

An electrical inspection is required for newly constructed homes or manufactured homes. You must complete all required city and county inspections before we can connect your permanent electric service.

Move service

If your previous residence was served by Duke Energy Progress and you need the service for the old location taken out of your name, visit the [move electric service](#) page.